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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

COMMISSIONERS

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DOCKETED

JAN 4 2011

GARY PIERCE - Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY

IN THE MATTER OF THE APPLICATION OF
HYDRO-RESOURCES, INC. FOR
ADJUDICATION "NOT A PUBLIC SERVICE
CORPORATION."

DOCKET NO. W-20770A-10-0473

PROCEDURAL ORDER

BY THE COMMISSION:

On April 29, 2010, in Docket No. W-02350A-10-0163 ("Tusayan Docket"), Tusayan Water Development Association, Inc. ("Tusayan") filed with the Arizona Corporation Commission ("Commission") a rate application using a test year ending December 31, 2009. In its application, Tusayan stated that it was directed to file the application by a Commission letter dated November 16, 2009. Tusayan explained that it does not own any of the facilities used in pumping or distributing water or any other property, plant, or equipment, and that it purchases water from two water companies and bills its customers for the water used. Tusayan stated that each of its 36 customers (5 residential and 31 commercial) receives water from one of two separate distribution systems owned and operated by the two separate water companies, with the serving system determined based on the customer's location. One of the water companies was identified as Hydro Resources, for which the billing rate is \$24.50 per 1,000 gallons. The other water company was identified as Anasazi Water Co., for which the billing rate is \$55.00 per 1,000 gallons. Tusayan stated that it assesses a fee on each bill of \$0.0004 per gallon to cover its administrative costs and did not request a rate increase in its application. On July 19, 2010, Tusayan Ventures, LLC ("T Ventures") was granted intervention in the Tusayan Docket pursuant to a request for intervention filed on July 2, 2010.

On July 21, 2010, in the Tusayan Docket, the Commission's Utilities Division ("Staff") filed two letters issued the same day, one to Hydro-Resources, Inc. ("Hydro") and one to Anasazi Water Company, LLC ("Anasazi"). Each letter thanked the recipient for taking the time to talk with Staff

1 regarding the recipient's relationship with Tusayan, stated that Staff believes that the recipient may
2 be acting as a public service corporation, asked the recipient to file within 90 days either an
3 application for a Certificate of Convenience and Necessity ("CC&N") or a request to be adjudicated
4 not a public service corporation, and stated that failure to take action may result in the filing of a
5 complaint and a petition for an order to show cause regarding why the recipient should not be subject
6 to Commission regulation.

7 On October 21, 2010, Anasazi filed, in Docket No. W-20765A-10-0432 ("Anasazi Docket"),
8 an Application for Adjudication "Not a Public Service Corporation" ("Anasazi Adjudication
9 Application").

10 On November 19, 2010, Hydro filed, in this docket, Hydro-Resources, Inc.'s Application for a
11 Determination That It Is Not Acting as a Public Service Corporation in Tusayan, Arizona ("Hydro
12 Adjudication Application").

13 On December 2, 2010, in this docket, the Tusayan Docket, and the Anasazi Docket (jointly
14 "the three dockets"), Staff filed a Request for Procedural Conference. In each Request, Staff
15 requested a procedural conference; stated that the matters in the three dockets are complex and
16 interrelated; and stated that Staff recommends, at a minimum, suspension of Tusayan's rate
17 application, pending the resolution of the Anasazi Adjudication Application and the Hydro
18 Adjudication Application.

19 On December 10, 2010, in each of the three dockets, a Procedural Order was issued
20 scheduling a joint procedural conference for the three dockets to be held on January 4, 2011, at the
21 Commission's offices in Phoenix. The parties were instructed to be prepared to discuss whether the
22 three dockets should be consolidated and how the three dockets should proceed.

23 On December 30, 2010, the Town of Tusayan ("Town") filed, in the Tusayan Docket, a letter
24 advising that the Town is exploring options available for financing and operating its own municipal
25 water system; stating that the Town was aware of the procedural conference scheduled for January 4,
26 2011; stating that the Town has a strong interest in any decisions that might be made concerning
27 water service to its residents; and asking that the Commission not act further on these issues without
28 the Town's "having a seat at the table to discuss them and provide its input as to how matters should

1 proceed.” The Town did not mention intervention in its letter or otherwise formally request that it be
2 permitted to participate as a party in any of the three dockets.

3 On January 4, 2011, a procedural conference was held as scheduled at the Commission’s
4 offices in Phoenix, Arizona. Tusayan was represented by Chris Brainard, its contracted Certified
5 Public Accountant, who verified that he is neither a corporate officer nor an employee of Tusayan
6 and who was directed that Tusayan needs to select, by Board Resolution, a representative who is
7 eligible to appear before the Commission on Tusayan’s behalf under A.R.S. § 40-243 and Rule 31 of
8 the Rules of the Arizona Supreme Court. T Ventures, Anasazi, Hydro, and Staff appeared through
9 counsel. Anasazi, Hydro, and Staff all expressed support for consolidating the three dockets and for
10 suspending the rate case process while the other issues are resolved. Mr. Brainard expressed support
11 for consolidating the three dockets, expressed no opposition to suspending the rate case process, and
12 was informed that Tusayan’s Board Resolution must include Tusayan’s position on consolidating the
13 three dockets.¹ T Ventures expressed no objection to consolidating the three dockets or to
14 suspending the rate case pending resolution of other issues, provided that there are “benchmarks” that
15 must be met, and the process does not result in excessive delay. No representative for the Town was
16 present. However, counsel for Hydro advised that he had been informed by the Town that the issue
17 of intervention was expected to be on the agenda for the Town Council meeting scheduled for
18 January 5, 2011. Hydro and Anasazi both also asserted that the Town should participate as a party in
19 the three dockets. No ruling was made on consolidation, pending consideration of Tusayan’s
20 Resolution, and it was determined that another procedural conference would be held in approximately
21 one month. It was further determined that the Procedural Order scheduling the procedural conference
22 would also direct the Town to make a filing clarifying its intent as to intervention and would
23 memorialize the requirement for Tusayan’s Resolution.²

24 IT IS THEREFORE ORDERED that a **joint procedural conference involving this docket,**
25 **the Tusayan Docket, and the Anasazi Docket** shall be held on **February 7, 2011, at 10:00 a.m.,** or
26

27 ¹ Although it may not have been stated in the procedural conference, Tusayan will also be required to include in its
28 Resolution Tusayan’s position on suspending the rate case process pending the resolution of other issues.

² The filing requirements for the parties are included in the Procedural Order being issued in the Tusayan Docket.


as soon thereafter as is practicable, at the Commission's offices, Hearing Room #1, 1200 West Washington, Phoenix, Arizona 85007.

IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission *pro hac vice*.

IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized Communications) applies to this proceeding and shall remain in effect until the Commission's Decision in this matter is final and non-appealable.

IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

DATED this 4th day of January, 2011.


SARAH N. HARPRING
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered this 4th day of January, 2011, to:

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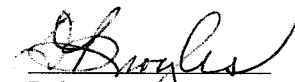
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